

**BAKER & HOSTETLER LLP**

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*Attorneys for Irving H. Picard, Trustee for the  
Substantively Consolidated SIPA Liquidation of  
Bernard L. Madoff Investment Securities LLC and  
the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES, LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

In re:

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation  
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

INDENTURE OF TRUST DATED JULY 19, 1982  
MADE BY DAVID L. RUBIN; and J. ROBERT  
CASEY, in his capacity as Trustee for the  
Indenture of Trust dated July 19, 1982,

Adv. Pro. No. 10-04833 (SMB)

Defendants.

**TRUSTEE'S REQUEST TO ENTER DEFAULT**

To: CLERK OF THE COURT  
UNITED STATES BANKRUPTCY COURT

Irving H. Picard (the "Trustee"), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities, LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.*, and Bernard L. Madoff, by and through his counsel, Baker & Hostetler LLP, respectfully requests that the Clerk of the Court issue a Certificate of Default against defendants Indenture of Trust dated July 19, 1982 made by David L. Rubin and J. Robert Casey pursuant to Rule 55(a) of the Federal Rules of Civil Procedure, made applicable to this Adversary Proceeding by Rule 7055 of the Federal Rules of Bankruptcy Procedure, for failure to plead or otherwise defend the above-captioned action as it fully appears from the Court file and from the attached Affidavit.

**WHEREFORE**, the Trustee respectfully requests that this Court grant the Trustee's Motion in its entirety and provide for such other relief as this Court deems just and proper.

Dated: New York, New York  
July 13, 2015

Respectfully submitted,

Of Counsel:

**BAKER & HOSTETLER LLP**

811 Main Street, Suite 1100  
Houston, Texas 77002-0518  
Telephone: 713.751.1600  
Facsimile: 713.751.1717  
Dean D. Hunt  
Email: dhunt@bakerlaw.com

*/s/ Nicholas J. Cremona*

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Plaintiff-Applicant,

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SECURITIES, LLC,

Defendant.

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Plaintiff,

v.

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Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

Adv. Pro. No. 10-04833 (SMB)

Defendants.

**AFFIDAVIT SUPPORTING ENTRY OF DEFAULT**

STATE OF TEXAS                    )  
  ) ss:  
COUNTY OF HARRIS                )

Farrell Hochmuth, being duly sworn, hereby attests as follows:

1. I was admitted pro hac vice into this Court and am a partner at the firm of Baker & Hostetler LLP, which is counsel for Irving H. Picard (“Trustee”), Trustee for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”) and the estate of Bernard L. Madoff, individually.

2. On December, 1, 2010, the Trustee commenced this adversary proceeding by filing a complaint (the “Complaint”) against NTC & Co. LLP, as former custodian of an Individual Retirement Account for the benefit of David L Rubin and a former custodian of an Individual Retirement Account for the benefit of Charlotte T Rubin, Indenture of Trust Dated July 19, 1982 made by David L. Rubin, Charlotte T. Rubin, individually in her capacity as Trustee for the Indenture of Trust dated July 19, 1982 made by David L. Rubin, J. Robert Casey, in his capacity as Trustee for the Indenture of Trust dated July 19, 1982 made by David L. Rubin, James Ullman, in his capacity as Trustee for the Indenture of Trust dated July 19, 1982 made by David L. Rubin (“Defendants”).<sup>1</sup> (Dkt. No. 1.) The Complaint asserted claims pursuant to sections 78fff(b), 78FFF-1(a) and 78fff-2(c)(3) of SIPA, sections 105(a), 544, 548(a), 550(a), and 551 of the United States Bankruptcy Code,

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<sup>1</sup> Defendants NTC & Co. LLP, Charlotte T. Rubin, and James Ullman have all been dismissed from this proceeding. (See Dkt. Nos. 8, 9, and 10).

11 U.S.C. §§ 101, *et seq.*, and other applicable law, seeking the avoidance and recovery of fraudulent transfers in connection with certain transfers of property by BLMIS to or for the benefit of Defendants. (*Id.*).

3. On February 14, 2011, the Clerk of this Court issued a summons upon Defendants. (Dkt. No. 4).

4. On February 14, 2011, the Trustee, in accordance with Bankruptcy Rule 7004(b) of the Federal Rules of Bankruptcy Procedure, timely served the Summons and Complaint upon Indenture of Trust Dated July 19, 1982 made by David L. Rubin and upon J. Robert Casey (the “Defaulting Defendants”). (*See* Dkt. Nos. 4 and 5). An Affidavit of Service evidencing proper and timely service was filed with the Court. (*See* Ex. A., Affidavit of Service; Dkt. No. 5).

5. Pursuant to the Order (1) Establishing Litigation Case Management Procedures For Avoidance Actions And (2) Amending The February 16, 2010 Protective Order governing the litigation of certain avoidance actions, including this adversary proceeding, the time by which the Defaulting Defendants may answer or otherwise move with respect to the Complaint was set to expire on April 15, 2011. (*See* Dkt. No. 4).

6. On March 7, 2011, the Trustee and Defendants stipulated and agreed that the time by which the Defaulting Defendants may answer or otherwise respond to the Complaint would be May 16, 2011. The Trustee filed a Notice of Extension with this Court on March 7, 2011. (*See* Dkt. No. 6).

7. Despite being duly served with the Summons and Complaint and being given an extension to answer or otherwise respond to the Complaint, the Defaulting

Defendants did not file an answer, move, or otherwise respond to the Complaint on or before May 16, 2011.

8. Upon information and belief, the Defaulting Defendant J. Robert Casey is neither an infant nor incompetent.

9. On June 26, 2015, I performed a search on the Department of Defense Manpower Data Center (DMDC). Upon searching the information data banks of DMDC, the DMDC does not possess any information indicating that Defaulting Defendant J. Robert Casey is currently on active duty as to all branches of the Military.

10. I declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge, information and belief.

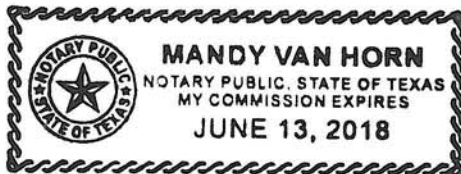


Farrell Hochmuth

Sworn to before me this  
9th day of July, 2015



Notary Public, State of Texas



UNITED STATES BANKRUPTCY COURT  
Southern District of New York

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.  
BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

Adv. Pro. No. 08-01789 (BRL)

SIPA LIQUIDATION

(Substantively Consolidated)

Case No. 09-11893 (BRL)

IRVING H. PICARD, Trustee for the Liquidation  
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

NTC & Co. LLP, as former custodian of an  
Individual Retirement Account for the benefit of  
David L. Rubin and as former custodian of an  
Individual Retirement Account for the benefit of  
Charlotte T. Rubin; INDENTURE OF TRUST  
DATED JULY 19, 1982 MADE BY DAVID L.  
RUBIN; CHARLOTTE T. RUBIN, individually  
and in her capacity as Trustee for the Indenture of  
Trust dated July 19, 1982 made by David L. Rubin;  
J. ROBERT CASEY, in his capacity as Trustee for  
the Indenture of Trust dated July 19, 1982 made by  
David L. Rubin; and JAMES ULLMAN, in his  
capacity as Trustee for the Indenture of Trust dated  
July 19, 1982 made by David L. Rubin,

Defendants.

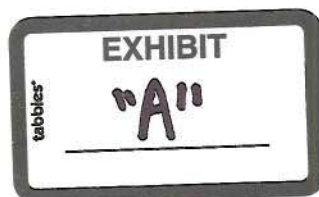
Adv. Pro. No. 10-04833 (BRL)

AFFIDAVIT OF SERVICE

STATE OF NEW YORK )  
COUNTY OF NEW YORK ) ss:

I, Yan Fayerman declare:

300108860



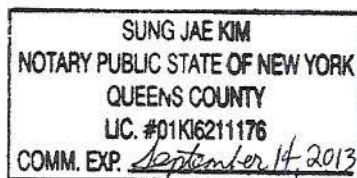


1. I am over the age of 18 years and not a party to these chapter 11 cases.
2. I am employed by Donlin, Recano & Company, Inc., 419 Park Avenue South, Suite 1206, New York, NY 10016.
3. On the 14<sup>th</sup> day of February, 2011, I caused a true and accurate copy of the:
  - (i) "Complaint", along with the relevant exhibits (Docket No. 1); and the
  - (ii) "Notice of Applicability of the Order Approving Case Management Procedures for Avoidance Actions" (Docket No. 2); and the
  - (iii) "Summons and Notice of Pretrial Conference in An Adversary Proceeding" (Docket No. 4); and the
  - (iv) "Order (1) Establishing Litigation Case Management Procedures for Avoidance Actions and (2) Amending the February 16, 2010 Protective Order" dated November 11, 2010; and the
  - (v) "Avoidance Action Executive Summary Letter dated December 20, 2010"; and the
  - (vi) "Second Amended Notice of Omnibus Avoidance Action Hearing Dates".to be served upon the parties listed on Exhibit 1, attached hereto, via First Class US Mail.
4. Said documents were securely enclosed in postage prepaid envelopes and delivered to an office of the United States Postal Service for delivery by First Class Mail.
5. I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge. Executed this 14<sup>th</sup> day of February, 2011 at New York, New York.

By *Van Fayerman*  
Van Fayerman

Sworn before me this  
14<sup>th</sup> day of February, 2011

*Sung Jae Kim*  
Notary Public



Date : 2/14/2011

Adv Pro No: 10-04833 (BRL)  
Exhibit 1  
Redacted Version

Page # : 1

CHARLOTTE RUBIN

CHARLOTTE RUBIN  
WELLINGTON FL 33414

001687 010368

INDENTURE OF TRUST DATED JULY 19, 1982 MADE BY DAVID L. RUBIN

INDENTURE OF TRUST DATED JULY 19, 1982  
MADE BY DAVID L. RUBIN  
WELLINGTON FL 33414

001688 003828

INDENTURE OF TRUST DATED JULY 19, 1982  
MADE BY DAVID L. RUBIN  
WESTON MA 02493

001688 010366

INDENTURE OF TRUST DATED JULY 19, 1982  
MADE BY DAVID L. RUBIN  
BOSTON MA 02110-3331

001688 010367

JAMES ULLMAN

JAMES ULLMAN  
WESTON MA 02493

002214 010364

J. ROBERT CASEY

J. ROBERT CASEY  
BOSTON MA 02110-3331

002215 010365

NTC & CO.

THOMAS J. SCHELL  
BRYAN CAVE LLP  
1290 AVENUE OF THE AMERICAS  
NEW YORK NY 10104

Counsel - 003156 012157